

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellants:	Carl Kaoru Sakamoto	REPLY BRIEF
Serial No.	10/777,293	
Confirmation No.	5279	
Filing Date	02/12/2004	
Group Art Unit	3739	
Examiner	Matthew Kasztejna	
Attorney Docket No.	700.002US01	
Title: LARYNGOSCOPE BLADE		

REMARKS

In the Examiner's Answer mailed December 12, 2007 the Examiner repeated the grounds of rejection from the Final Office Action. (*Examiner's Answer*, ¶ 9). The Examiner further addressed a number of comments in response to arguments in Appellant's Appeal Brief. Appellants provide the following arguments in response to the Examiner's Answer:

I. In addressing the Appellant's argument the Examiner continues to misinterpret the difference between a straight blade and a curved blade in asserting the Cartledge et al. has a straight laryngoscope blade. The Examiner asserted:

The main blade portion of Cartledge et al. is clearly straight between a distal end and a proximal end as viewed from a bird's eye view, or down the barrel of the handle.

As pointed out in the Applicant's appeal brief, just by viewing an object from a select perspective so it appears to conform to a desired shape does not in fact change the actual shape of the object. Cartledge et al. blade's shape is curved. Please see Figures 1, 2, 3, 5, and 11 of the Cartledge et al. reference. As further pointed out in the specification and the Appeal Brief, traditional laryngoscope blades generally come in two flavors, a straight blade, (known in the art as a Miller blade) and a curved blade (known in the art as a Macintosh blade). Hence one skilled in the art would understand the Cartledge et al. blade was curved like a Macintosh blade.

Moreover, the Examiner contradicts his assertion that a curved blade can be considered a straight blade if viewed from a select perspective. In regards to the Roberts reference, the Examiner stated in the Examiner's Answer:

Rather, Roberts is used to teach an analogous laryngoscope wherein the blade is adjustable between a straight surface and a curved surface depending upon the preference of the physician (see Figs. 1, 4 and 6). Roberts is used to demonstrate the desirability of having a laryngoscope operable with either a curved or straight blade ...

Hence, the Examiner here acknowledges the difference between a straight and a curved blade as understood in the art. If you view the Robert's laryngoscope from a bird's eye view or down the barrel of the handle when Robert's blade is in the curved formation, as illustrated in Figures 4 and 6 of the Roberts reference, it would appear to be straight even though the Examiner acknowledges its actual shape is curved. Like Robert's blade in Figures 4 and 6, Cartledge's blade is curved. Claim 1 of the present application includes the aspect "the main blade portion being relatively straight between the distal end and the proximal end." Since, the Cartledge's blade is curved, the reference does not teach this aspect. Independent claims 13, 22, 27 and 28 all include aspects relating to a straight blade portion that is not taught by the Cartledge et al. reference.

II. As pointed out in the Appeal Brief, traditional laryngoscopes with straight blades portions do not have a second displacement plate that extends away from the straight main blade portion. Moreover, as pointed out above and in the Appeal Brief, traditional curved laryngoscope blades, such as that disclosed in Cartledge et al. reference, have a second displacement plate that extends away from a main blade portion. However, nothing in the cited art would render a straight blade having a second tongue displacement plate that extends away from the main blade portion obvious as further pointed out in the Appeal Brief.

III. In regards to Claim 22, the Examiner in the Answer Brief has continued to fail to address all the aspects of the claim. Claim 22 includes the aspect “the second tongue displacement plate further having a surface that is positioned in an opposite direction as the posterior surface of the main blade, the surface of the second tongue displacement plate forming a plane that is generally parallel with an axis formed by the length of the posterior surface.” None of the cited references teach or suggest this aspect in combination with the other aspects of claim 22.

For at least the reasons stated above, Appellant respectfully requests that the rejections of the claims on appeal be reversed.

Respectfully Submitted,

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